

EXTENSIONS OF REMARKS

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012

SPEECH OF

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2011

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1540) to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for fiscal year 2012, and for other purposes:

Mr. BERMAN. Mr. Chair, I rise in support of the amendment to strike section 1034 from the bill. Let's be clear what we are debating here today: the bill before us would amend the authorization for the use of military force (AUMF) that Congress passed in the wake of the 9/11 attacks—not just reaffirm the existing authorization.

As a threshold matter, I question the premise for this amendment. Proponents argue that Congress needs to act now lest a court change its interpretation of the AUMF. Proponents also argue that the President has been hamstrung in his ability to detain and target groups linked to al Qaeda, like al Qaeda in the Peninsula (AQAP).

Yet Defense Department General Counsel Jeh Johnson made clear in public testimony that DoD has all the authority it needs to fight terror. And I've seen no evidence that the Administration feels any restraints on its ability to target threats like AQAP. In fact, the White House stated yesterday it "strongly objects" to section 1034. If the Administration, which stands to benefit most from the proposed amendment to the AUMF, is arguing against it, I have serious doubts we should proceed.

I support efforts to update the AUMF of 2001. The AUMF should reflect the diffuse terrorist threat faced by the US today and clarify that the President has the authority to target groups closely linked to al Qaeda and the Taliban that came into being after 9/11 and that pose a direct threat to the United States. We should also update it as a matter of congressional prerogative. Congress should take ownership of the AUMF rather than let the courts and the Executive interpret the 2001 legislation unilaterally.

At some point, congressional failure to update the AUMF could force the President to rely on his Article II authority to target entities increasingly removed from 9/11.

But this provision in the NDAA is no way to do it.

Sec. 1034 was advanced with no hearings in the Foreign Affairs Committee—the principal committee of jurisdiction—and with only a passing mention in an Armed Services Committee hearing.

There's been no floor debate beyond this amendment, and no opportunity for the Administration or outside experts to weigh in.

This is not the way Congress should authorize an expansion of the President's authority to use force.

And make no mistake: that's exactly what we're doing here, even if the proposed authority is consistent with how courts have interpreted the original AUMF.

The 2001 AUMF makes no reference to associated forces, nor does it authorize the President to attack nations, organizations, and persons who are substantially supporting al Qaeda or the Taliban.

We need to examine these provisions closely, some of which could have unintended consequences and which remain cutting edge legal theories. For example, Sec. 1034 authorizes the President to use force against "nations who are substantially supporting the Taliban".

Would that allow the President to use force against Pakistan or Iran if they were providing material support to the Taliban?

That isn't what I signed up for when I voted to authorize the President to attack those responsible for 9/11 in the original AUMF.

With adequate due diligence, I would support giving the President authority to target so-called "associated forces". Indeed, the concept of co-belligerency is one well-founded in the laws of war, at least against nations. I could even envision authorizing the detention and targeting of those substantially supporting al Qaeda, as the McKeon provision suggests.

But there should be limits to these authorities. We need to ensure a sufficient link between an associated force and the Taliban or al Qaeda, and that such a group is hostile to the United States. We also need to make sure there are clear ways to determine whether an entity is "substantially supporting" al Qaeda. At a minimum, I would urge my colleagues to place a time limit on such authorities. I want to make sure we are not extending a war—something Jihadists might welcome—at the exact time when we should be narrowly focusing our counterterrorism efforts.

I tried to work with my colleagues to find a mutually agreeable text, one that would restrict the proposed text while addressing the proponents' interest in incorporating "associated forces" and detention authority into the 2001 AUMF.

Given the late hour, we could not reach a deal. But I remain willing to work with my counterparts across the aisle to find a mutually agreeable, bipartisan text.

Mr. Chairman, in light of the flawed language in Sec. 1034, and the equally flawed process, I urge my colleagues to support this amendment to strike that section from the bill.

NATIONAL POLICE WEEK

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2011

Mr. POE of Texas. Mr. Speaker, last week was National Police Week honoring the serv-

ice and sacrifice of U.S. law enforcement, especially those that paid the ultimate sacrifice.

Every day peace officers put themselves in harm's way to protect the citizens of this great country.

Peace officers are the last strand of wire in the fence between good and evil.

They are what separate us from the anarchy of the lawless.

They are real life heroes in our midst.

One of these heroes is Officer Timothy Abernethy who lived and died serving the people of Texas and the City of Houston.

Fighting crime was a personal calling for Timothy, not just an occupation.

Officer Abernethy worked hard to protect the citizens of Houston, working overtime, all while earning a degree, and providing for his family.

He was killed in the line of duty, defending his community, in 2008.

We reflect on the sacrifice of Officer Abernethy, as well as other fallen peace officers, not only during National Police Week, but every day.

And that's just the way it is.

IN REMEMBRANCE OF MR. HARLELL X. JONES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2011

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Harlell X. Jones, a civil rights leader and community activist whose determination and leadership helped strengthen the Cleveland community.

Prime Minister Jones devoted his life towards his community at a young age, helping African American youth to develop an individual identity within the community and foster a more peaceful neighborhood. He encouraged African American youth to demand economic empowerment by boycotting Cleveland stores to secure private ownership. He also led a movement to increase community safety by securing a truce and cease fire between police and Black Nationalists.

Harlell Jones spearheaded voter registration and got out the vote campaigns that resulted in the election of Carl Stokes as Mayor of Cleveland, as well as his brother, Louis Stokes, as a Congressman in the U.S. House of Representatives. He also worked with Lutheran Metropolitan Ministries and prominent civil rights leaders Malcolm X and Martin Luther King, Jr.

Mr. Speaker and colleagues, please join me in honor and remembrance of Mr. Harlell X. Jones, whose life is worthy of celebration and emulation. I offer my heartfelt condolences to Prime Minister Jones' family and friends. Although he will truly be missed, his unwavering devotion to both African American youth and the Cleveland community will not be forgotten.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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